

REMARKS

Claims 1-2, 4-9, 11-17 and 19-28 are pending in this application. Claims 3, 10 and 18 have been canceled in a previous Office Action response. In this response to the Office Action of March 9, 2006 independent Claims 1, 8 and 16 have been amended and dependent Claims 26-28 have been added. According to the Office Action mailed on March 9, 2006, Claims 1-2, 4-9, 11-17, and 19-25 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. published application No. 2002/0016765 to Sacks ("*Sacks*"). The applicants respectfully contend that, as amended, the pending independent claims and their corresponding dependent claims are not fully anticipated by *Sacks*. Therefore, the applicants assert that pending Claims 1-2, 4-9, 11-17 and 19-28 are in condition for allowance.

The *Sacks* Reference - 35 U.S.C. § 102(e)

Sacks is a 102(e) reference with a nonprovisional application filing date of July 10, 2001, which is actually subsequent to the filing date of applicants' pending application on December 28, 2000. However, *Sacks* claims priority to two provisional patent filings 60/217,291 and 60/217,342 ("the *Sacks* provisional applications") both filed on of July 11, 2000, which predates the filing date of applicants' pending application. According to MPEP 2136.03(III), the effective filing date of such a prior art published U.S. application is the filing date of the provisional applications if the provisional applications properly support the subject matter relied upon to make the rejection in compliance with 35 U.S.C. § 112 first paragraph. Therefore, the disclosures contained in the *Sacks* provisional applications should be compared to the claims of applicants' pending application to ensure that the provisional applications properly support the subject matter relied upon to make the rejection in compliance with 35 U.S.C. § 112 first paragraph. A copy of both provisional patent filings 60/217,291 and 60/217,342 were available from PAIRS on the USPTO website.

The *Sacks* provisional applications disclose systems and methods for handling a payment between a buyer and a seller (also referred to as the Business/Premier Account or "BA") over the Internet. When the buyer navigates a seller's website and decides to purchase an item the buyer selects a hyperlink (e.g., button) to purchase the item. (See 60/217,291, page 5; see also 60/217,342, page 2.) The buyer is then redirected to a payment page. A known buyer may be recognized by a cookie (in a "cookied system") along with an account name and password

provided by the buyer. (See 60/217,291, page 5; *see also* 60/217,342, page 2.) If the buyer is not known (e.g., does not have an account with the payment system), an account for electronically transferring value may be created. (See 60/217,291, page 5; *see also* 60/217,342, page 2.) As part of registration, the buyer may also be required to provide financial information such as his or her name, address, telephone number, credit cards numbers and/or bank account numbers, the expiration date of the credit card and/or bank accounts, billing address, etc. (See 60/217,291, page 5; *see also* 60/217,342, page 2.) The buyer may also be requested to provide an email address (or other user identifier) and password to sign-up for a system account. The buyer then submits this information and confirms the payment to the seller. (See 60/217,291, page 5; *see also* 60/217,342, page 2.) After the buyer's payment is processed, or if it is cancelled or unsuccessful, the buyer may be redirected or reconnected to a location (e.g., web site) specified by the seller. (See 60/217,291, page 5; *see also* 60/217,342, page 2.) Also, the third-party payment processing system may send an email (to the buyer and/or seller) confirming that the payment has been transmitted. (See 60/217,291, page 4.)

Amended Independent Claims 1, 8 and 16

The applicants respectfully contend that nowhere in the *Sacks* provisional applications is there teaching or suggestion of amended Claim 1. Specifically, the *Sacks* provisional applications fail to teach or suggest verifying of received information identifying a previously unknown user along with verifying the received information identifying the unknown user's payment account during the enrollment session.

While the *Sacks* provisional applications disclose that a cookie may be inspected for information relating to the purchaser, such a purchaser is one that was previously known to the payment service provider. (See 60/217,291, page 5; *see also* 60/217,342, page 2.) Previously unknown buyers may be asked to enter their email address (or another potential user identifier) with a desired password to enroll in the payment service. (See 60/217,291, page 5; *see also* 60/217,342, page 2.) Therefore, the *Sacks* provisional applications do not teach or suggest the verification of the information identifying the previously unknown user as claimed in independent Claim 1. Such functionality allows for a more effective and robust system with less transaction failures and allows the payment service provider to mitigate the added liability and risk associated with acting as a facilitator for both the buyer and the seller.

Although the *Sacks* provisional applications also disclose identifying a user's account information to be used for payment transactions during the registration process, the *Sacks* provisional applications do not teach or suggest the verification of the information identifying the user's payment account as claimed in independent Claim 1. Such functionality claimed in independent Claim 1 reduces the likelihood of transaction failures before the transaction is submitted and deters and reduces fraudulent purchases.

For the above stated reasons, the applicants respectfully assert that amended independent Claim 1 is not anticipated by the *Sacks* provisional applications, and therefore, amended independent Claim 1 is in condition for allowance. Independent Claims 8 and 16 have also been amended and recite, among other things, the verification of the received information identifying the network user and the received information identifying the payment account similar to amended independent Claim 1 discussed above. Thus, the applicants respectfully assert that all remarks addressed to the novelty of amended independent Claim 1 are also applicable to amended independent Claims 8 and 16. Therefore, the applicants assert that amended independent Claims 8 and 16 are allowable for the same reasons set forth above with respect to amended independent Claim 1.

The applicants also respectfully submit that, given the amendments to independent Claims 1, 8 and 16, the rejections of dependent Claims 2, 4-7, 9, 11-15, and 17-25 are now moot. Dependent Claims 2, 4-7, 9, 11-15, and 17-25 are allowable as a matter of law as depending from either independent Claims 1, 8, or 16, notwithstanding their independent recitation of patentable features.

Newly Added Dependent Claims 26-28

With regards to newly added dependent Claim 26, the *Sacks* provisional applications fail to teach, suggest, or motivate verifying the received information identifying the payment account includes verifying that the account can be electronically debited or credited during the enrollment session. Support for such an amendment is supported throughout the specification of this application. (*See, e.g.*, paragraph 0115, etc.)

The *Sacks* provisional applications do not teach or suggest the verification that the account can be electronically debited or credited during the enrollment session as claimed in Claim 26. Such functionality reduces the likelihood of transaction failures before the transaction

is submitted, which allows for a more effective and robust system with less transaction failures and keeps the burden on the buyer to correctly identify a proper account for the payment transaction to aid in the avoidance of fraud. Therefore, in addition to being allowable as a matter of law as depending from amended independent Claim 1, dependent Claim 26 should be allowable for its independent recitation of patentable features.

With regards to newly added dependent Claim 27, the *Sacks* provisional applications fail to teach, suggest, or motivate "evaluating at least one risk factor relating to the network user to determine acceptable level of risk in accepting payment from the network user," as required by dependent Claim 27. Support for such an amendment is located throughout the specification of the present application. (*See, e.g.*, paragraph 0125.) Nowhere in the *Sacks* provisional applications do they disclose evaluating risk factors (such as credit history, account histories, credit ratings/scores, bad check history, etc.) associated with the buyer during the enrollment session or otherwise. This limitation, like the additional verification of the identified network user and identified account discussed above, allows for a more effective and robust system to aid in the avoidance of fraud and provides an additional service to the seller by determining ahead of time the likelihood that the buyer will be able to fulfill her financial obligations to the seller. Therefore, in addition to being allowable as a matter of law as depending from amended independent Claim 1, dependent Claim 27 should be allowable for its independent recitation of patentable features.

With regards to newly added dependent Claim 28, support for such an amendment is located throughout the specification of the present application. (*See, e.g.*, paragraph 0126.) The applicants assert that Claim 28 is allowable as a matter of law as depending from independent Claim 1, notwithstanding its independent recitation of patentable features.

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CONCLUSION

The applicants believe they have responded to each matter raised by the Examiner. Allowance of the claims is respectfully solicited. It is not believed that extensions of time or fees for addition of claims are required beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR §1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 19-5029.

Respectfully submitted,



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